

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

CENTURY SURETY COMPANY,
Plaintiff

-vs-

EC & SM GUERRA, LLC,
Defendant

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SA-23-CV-01215-XR

CONSOLIDATED CASE

SA-24-CV-585-JKP-RBF

ORDER ADOPTING REPORT AND RECOMMENDATION

On this date the Court considered United States Magistrate Judge Richard B. Farrer’s Report and Recommendation (“R&R”) in the above-numbered and styled case, filed on August 21, 2025 (ECF No. 37), recommending that the Court grant Plaintiff’s Motion for Summary Judgment, (ECF No. 19). After careful consideration, the Court issues the following order.

BACKGROUND

This is an insurance dispute. Plaintiff Century Surety Company (“Century”) initiated this action seeking a judicial declaration that it owes nothing further under the policy. After Century filed the present action, EC & SM Guerra, LLC d/b/a Guardian Angel Child Development Center (“Guardian”) sued Century in a separate federal action on claims for fraud and fraud by disclosure, as well as on a contract claim urging that Century breached the policy. *See EC & SM Guerra, LLC v. Century Surety Company*, Case No. 5:24-cv-585-JKP-RBF (Western District of Texas, May 30, 2024) (Consolidated Case). Upon motion by Century, *id.* ECF No. 6 (Mot. to Consolidate), the Court consolidated Guardian’s lawsuit into the present first-filed Century declaratory-judgment case, *id.* ECF No. 11 (Transfer Order).

Century filed its Motion for Summary Judgment (ECF No. 19) seeking judgment that all amounts owing on its policy have been paid and dismissal of Guardian's fraud, fraud by non-disclosure and contract claims.

Guardian timely filed its response to Century's Summary Judgment Motion. ECF No. 22.

In his report and recommendation, Magistrate Judge Farrer recommends that Plaintiff's Motion for Summary Judgment should be granted. Specifically, Judge Farrer finds that Guardian's tort claims—fraud and fraud by non-disclosure, breach—fail to present a triable issue. ECF No. 37 at 8–10. Judge Farrer also finds there is no existence of a fiduciary relationship between Guardian and Century and therefore no triable issue on the existence of a fiduciary relationship or duty. *Id.* at 10–12. Likewise, Judge Farrer recommends summary judgment is warranted on the contract claims, finding that Guardian failed to provide proof of loss (signs claim) and failed to provide any factual support to substantiate a claim (papers and data claim). *Id.* at 12–14. Finally, Judge Farrer recommends issuing a declaration that Century owes no further payment under the policy. *Id.* at 15.

DISCUSSION

A party may serve and file objections to a Report and Recommendations within fourteen days. FED. R. CIV. P. 72(a), (b)(2). “Parties filing objections must specifically identify those findings objected to. Frivolous, conclusive [sic] or general objections need not be considered by the district court.” *Nettles v. Wainwright*, 677 F.2d 404, 410 n.8 (5th Cir. 1982), *overruled on other grounds by Douglass v. United States Auto. Ass’n*, 79 F.3d 1415 (5th Cir. 1996). The Magistrate

Judge's report and recommendation was electronically transmitted to the parties on August 21, 2025 (ECF No. 37). The time for filing objections has passed, and no objections have been filed.

The Court has reviewed the Report and Recommendation and finds it to be neither clearly erroneous nor contrary to law. *United States v. Wilson*, 864 f.2d 1219, 1221 (5th Cir. 1989). Having done so and finding no clear error, the Court accepts and adopts the report and recommendation as its own order.

CONCLUSION

Accordingly, it is **ORDERED** that the Report and Recommendation of Magistrate Judge Farrer (ECF No. 37) is **ADOPTED**.

Plaintiff's Motion for Summary Judgment (ECF No. 19) is **GRANTED**.

A separate judgment in favor of Plaintiff shall issue in accordance with Rule 58.

It is so **ORDERED**.

SIGNED this 5th day of September, 2025.



XAVIER RODRIGUEZ
UNITED STATES DISTRICT JUDGE